

[\*Thompson v. Houston Lighting & Power Co.\*](#), 93-ERA-2 (ALJ Oct. 25, 1995)

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**UNITED STATES OF AMERICA  
BEFORE THE DEPARTMENT OF LABOR**

CASE NOS. 93-ERA-2, 95-ERA48

IN THE MATTER OF

RONALD A. THOMPSON,  
COMPLAINANT,

vs.

HOUSTON LIGHTING & POWER COMPANY,  
RESPONDENT.

**RECOMMENDED ORDER APPROVING SETTLEMENT AND DISMISSING CASES**

This proceeding arises under the Energy Reorganization Act of 1974 (ERA), 42 U.S.C. § 5851 (1982), as amended, and the regulations promulgated thereunder at 29 C.F.R. Part 24 which are employee protective provisions of the ERA or of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2011, *et seq.* The Secretary of Labor is empowered to investigate and determine "whistleblower" complaints filed by employees at facilities licensed by the Nuclear Regulatory Commission (NRC) who are allegedly discharged or otherwise discriminated against with regard to their terms and conditions of employment for taking any action relating to the fulfillment of safety or other requirements established by the NRC.

On or about February 10, 1992, Complainant Thompson filed a complaint with the United States Department of Labor alleging, a retaliation charge against Houston Lighting & Power Company (herein HL&P) in Case No. 93-ERA-2. Complainant subsequently filed two additional complaints against HL&P under Cause No. 95-ERA-48.

On October 25, 1995, counsel for HL&P and Complainant filed a Joint Motion For Approval of a Settlement Agreement and Dismissal With Prejudice based upon a compromise of the outstanding issues. The Agreement is signed by Complainant Ronald Thompson and by Counsel for Respondent HL&P on October 25, 1995 and purports to incorporate the understanding of the parties as to the basis of the settlement. HL&P considers the terms of the settlement agreement to be confidential except as provided by

the Settlement Agreement and HL&P and Complainant expressly request that they be notified of any Freedom Of Information Act requests involving the settlement agreement, pursuant to 29 C.F.R. Part 70.26. The parties have moved that the Court recommend the cases be dismissed with prejudice.

My review of the settlement agreement is limited to a determination of whether its terms are a fair, adequate and reasonable settlement of Ronald Thompson's complaints concerning violations of the Energy Reorganization Act. *Fuchko and Yanker v. Georgia Power Co.*, 89-ERA-9, 89-ERA-10 (Sec'y, March 23, 1989). The basic criteria is whether or not the settlement adequately protects the whistleblower. *Virginia Electric and Power Co.*, 19 FERC § 61,333 (Federal Energy Regulatory Commission, 1982). Further, the settlement must not be contrary to the public interests. *Heffley, v. NGK Metals Corporation*, 80-SDW-2 (Sec'y, March 6, 1990).

After consideration of the settlement agreement and the representations of the parties, I find the agreement to be fair, adequate and reasonable, and I believe it is in the public interest to adopt the agreement as a basis for the administrative disposition of this matter. Therefore, in accordance with the authority conferred by 29 C.F.R. § 18.39(b), I recommend dismissal with prejudice of the outstanding issues involving HL&P and Complainant Ronald Thompson as set forth in the complaints which, in part, form the basis of the proceedings ongoing in Case Nos. 93-ERA-2 and 95-ERA-48.

ORDERED this 25th day of October, 1995, at Houston, Texas..

Michael Lesniak  
Administrative Law Judge